

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.945 of 2015
IN
Civil Writ Jurisdiction Case No. 20923 of 2013**

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1. Anil Kumar Pandey, son of Late Ram Sakal Roy, R/O At + P.O. :- Baghi, P.S.:- Samastipur, District:- Samastipur.
 2. Kailash Kumar Singh, son of Late Jhagaru Singh, R/O At + P.O. :- Motipur, P.S.:- Tajpur, District:- Samastipur.
 3. Tribhuwan Prasad, son of Late Ram Sakal Roy, R/O At + P.O. :- Baghi, P.S.:- Samastipur, District:- Samastipur.
 4. Ajeet Kumar, son of Bhola Prasad Sah, R/O At + P.O. :- Motipur, P.S.:- Tajpur, District:- Samastipur.
 5. Neel Kamal Neeraj, son of Sri Ram Shreshtha Sah, R/O Village :- Metharapur, P.O. : Madhopur Disgharua, P.S.:- Tajpur, District:- Samastipur.
 6. Rajesh Kumar Pandey, son of Shri Bhubnesh Pandey, R/O Village + P.O.:- Bherokhara, P.S.:- Tajpur, District:- Samastipur.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Magistrate, Samastipur, District:-Samastipur.
4. The District Education Officer, Samastipur, District:- Samastipur.
5. The District Programme Officer, (Establishment), Samastipur, District:- Samastipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mrityunjay Kumar, Adv.

For the Respondent/s : Mr. Manoj Kumar, AC to SC-12.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 18-09-2018

This intra-court appeal arises from the judgment and order passed in CWJC No.20923 of 2013, whereby the writ petition was dismissed.

We have heard Mr. Mrityunjay Kumar, learned counsel appearing for appellant-writ petitioners and Mr. Manoj Kumar,



learned Assisting counsel to Standing Counsel No.12 for the State.

The writ petition was filed on behalf of six petitioners praying for the following reliefs.

“For issuance of a writ in the nature of mandamus to the respondent authorities to consider the services of the petitioners for their designation as “Graduate Grade”-I Primary (Block) Teacher in accordance with the Rule 4(ii) read with Rule 18 of Bihar Panchayat Primary Teacher (Employment and Service Condition) Rules, 2012 since the date of enactment of the Rule i.e. 03.04.2012 and accordingly to pay the salary of Trained Teacher (Graduate Grade) as per Rule 15 of the Rules, 2012.

And for any other relief(s) as per the facts and circumstance of the case.”

The grievance of the appellant-writ petitioners is that though they were appointed following a selection process and have also undergone training etc. but they are not being given the benefit of proper designation in terms of the Bihar Panchyat Teachers (Employment and Service Conditions) Rules, 2012 (hereinafter referred to as ‘the Rules’). According to the petitioners, they are entitled for a designation and salary in the Graduate Grade- I in terms of Rule 4(2) read with Rule 18 of the ‘Rules’. Since, the grievance so raised by the appellant-writ petitioners was not being considered that they approached this Court but the writ petition was dismissed.

The short arguments advanced by Mr. Mrityunjay



Kumar, learned counsel appearing for the petitioners to question the order of the learned Single Judge is that all the writ petitioners approached before this Court for a direction to the appropriate authority to consider their respective claim and dispose it of in accordance with law taking note of the stipulations present in the statutory rules but the claim has been mis-appreciated by the learned Single Judge to dismiss the writ petition with an observation, that the appellants need to challenge the validity of 'the Rules' when in fact, the appellant- writ petitioners never intended to do so rather seek relief under the same rules.

Mr. Manoj Kumar, learned State Counsel has fairly submitted that no challenge was made by the appellant-writ petitioners to the statutory rules rather their prayer was for consideration of their cases for designation as a 'Graduate Grade-1 (Trained Primary Teacher)' in accordance with the statutory rules. He submits that should any representation be filed by the petitioners with supportive papers their claim would be considered by respondent No.2, the Director, Primary Education, Bihar, Patna.

Having heard learned counsel for the parties and having considered the relief prayed, we are satisfied by the arguments advanced by Mr. Mrityunjay Kumar, learned counsel appearing for the appellant-writ petitioners, to set aside the judgment and order



passed by the learned Single Judge and allow the writ petition with a liberty to the appellant-writ petitioners to raise their grievances before the respondent no.2, the Director Primary Education, Government of Bihar, Patna together with supportive documents and it goes without saying that any such grievance raised by the appellant-writ petitioners should be considered and disposed of in accordance with law by the Director, Primary Education, within three months from the date of filing of such representation.

The judgment and order of the learned Single Judge passed in CWJC No.20923 of 2013 is set aside. The writ petition is allowed.

The appeal is allowed with the direction aforementioned.

(Jyoti Saran, J)

(Nilu Agrawal, J)

SKPathak/Anjula

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28-09-2018
Transmission Date	NA

